

## SENATE BILL NO. 69

INTRODUCED BY A. BISHOP

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW GOVERNING WARRANTS FOR DISTRAINT; PROVIDING THAT UPON FILING A WARRANT FOR DISTRAINT, THE LIEN ATTACHES TO ALL PROPERTY OWNED BY THE DEBTOR THROUGHOUT THE STATE; PROVIDING FOR THE FILING AND RELEASING OF WARRANTS FOR DISTRAINT BY ELECTRONIC METHODS; AMENDING SECTIONS 15-1-701 AND 15-1-704, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 15-1-701, MCA, is amended to read:

**"15-1-701. Warrant for distraint.** (1) A warrant for distraint is an order, under the official seal of the department of revenue or of the department of transportation, directed to a sheriff of a county of Montana or to an agent authorized by law to collect a tax. The order commands the recipient to levy upon and sell the real and personal property of a delinquent taxpayer.

(2) Upon filing the warrant as provided in 15-1-704, there is a lien against all real and personal property of the delinquent taxpayer located in the county where the warrant is filed throughout the state. The resulting lien is treated in the same manner as a properly docketed judgment lien, the department is a judgment lien creditor, and the department may collect delinquent taxes and enforce the tax lien in the same manner as a judgment is enforced, except that the department may enforce the judgment lien at any time within 10 years of its creation or effective date, whichever is later.

(3) A warrant may be issued for the amount of unpaid tax plus penalty, if any, and accumulated interest. The lien is for the amount indicated on the warrant plus accrued interest from the date of the warrant. The priority date of the tax lien created by filing the warrant for distraint is the date the tax was due as indicated on the warrant for distraint.

(4) The accelerated priority date provided for in (3) is not valid against purchasers, holders of security interests, judgment lien creditors, and those lienholders identified in Title 71, chapter 3, parts 3 through 15, whose interest is recorded prior to the filing of the warrant for distraint."

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2       **Section 2.** Section 15-1-704, MCA, is amended to read:

3       **"15-1-704. Filing with district court.** (1) After issuing a warrant for distraint, the department may  
4 file the warrant for distraint with the clerk of a district court. The clerk shall file the warrant for distraint  
5 in the judgment docket, with the name of the taxpayer listed as the judgment debtor.

6       (2) A copy of the filed warrant for distraint may be sent by the department to the sheriff or agent  
7 authorized to collect the tax.

8       (3) A judgment lien filed pursuant to this section may be renewed for another 10-year period  
9 pursuant to the methods provided in 25-13-102.

10       (4) The department shall provide notice of all warrants for distraint filed in the state by electronic  
11 or other means. The department is authorized to file and release warrants for distraint by any electronic  
12 methods that are available. The department shall adopt rules governing the use of electronic methods of  
13 filing and releasing warrants for distraint, as provided in 2-20-105(4)."

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15       NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2002.

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